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initial 30-day waiver period. The Board may grant the additional waiver only when it finds merit in the explanation the debtor has submitted under § 1018.26.

(k) The Board may waive the collection of interest, penalties, and administrative costs if it finds that one or more of the following conditions exists:

(1) The debtor is unable to pay any significant sum toward the debt within a reasonable time;

(2) Collection of interest, penalties, and administrative costs will jeopardize collection of the principal of the debt;

(3) The Board is unable to enforce collection in full within a reasonable time by enforced collection proceedings; or

(4) Collection would be against equity and good conscience or not in the best interest of the United States, including the situation in which an administrative offset or installment payment agreement is in effect.

§ 1018.31 Use of credit reports.

The Board may institute a credit investigation of the debtor at any time following receipt of knowledge of the debt in order to aid the Board in making appropriate determinations as to:

(a) The collection and compromise of a debt;

(b) The collection of interest, penalties, and administrative costs;

(c) The use of administrative offset;

(d) The use of other collection methods; and

(e) The likelihood of collecting the debt.

§ 1018.32 Bankruptcy claims.

When the Board receives information that a debtor has filed a petition in bankruptcy or is the subject of a bankruptcy proceeding, it shall suspend all collection actions against the debtor in accordance with 11 U.S.C. 362 and shall furnish information concerning the debt owed the United States to the Department of Justice's Nationwide Central Intake Facility to permit the filing of a claim.

49 CFR Ch. X (10–1–07 Edition)

§ 1018.33 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt under this part, the Board may send a written request to the Secretary of the Treasury (or designee) in order to obtain a debtor's mailing address from the records of the Internal Revenue Service.

(b) The Board may disclose a mailing address obtained under paragraph (a) of this section to other agents, including collection service contractors, in order to facilitate the collection or compromise of debts under this part, except that a mailing address may be disclosed to a consumer reporting agency only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) The Board and its agents, including consumer reporting agencies and collection services, must comply with the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

§ 1018.34 Additional administrative collection action.

Nothing contained in this part is intended to preclude any other administrative remedy which may be available.

Subpart C—Compromise of a Claim

§ 1018.50 When a claim may be compromised.

The Board may compromise a claim not in excess of the monetary limitation if it has not been referred to GAO or DOJ for litigation. Only the Comptroller General of the United States or designee may effect the compromise of a claim that arises out of the exceptions made by the GAO in that account of an accountable officer, including a claim against the payee, prior to its referral by GAO for litigation.

[58 FR 7749, Feb. 9, 1993; 58 FR 11099, Feb. 23, 1993]

§ 1018.51 Reasons for compromising a claim.

(a) A claim may be compromised for one or more reasons set forth below:

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(1) The full amount cannot be collected because:

(i) The debtor is unable to pay the full amount within a reasonable time; or

(ii) The debtor refuses to pay the claim in full, and the Government is unable to enforce collection in full within a reasonable time; or

(2) There is a real doubt concerning the Government's ability to prove its case in Court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts; or

(3) The costs of collecting the claim do not justify the enforced collection of the full amount. The Board shall apply this reason for compromise in accordance with the guidelines in 4 CFR 103.4.

(b) The Board shall determine the debtor's inability to pay, the Government's ability to enforce collection, and the amounts which are acceptable in compromise in accordance with the Federal Claims Collection Standards, 4 CFR part 103.

(c) Compromises payable in installments are discouraged, but, if necessary, must be in the form of a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon. The agreement also must provide that in the event of default:

(1) The entire balance of the debt becomes immediately due and payable; and

(2) The Government has the right to enforce any security agreement.

§ 1018.52 Restrictions on the compromise of a claim.

(a) The Board may not accept a percentage of a debtor's profits or stock in a debtor's corporation in compromise of a claim. In negotiating a compromise with a business concern, consideration is given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

(b) If two or more debtors are jointly or severally liable, collection action is not withheld against one debtor until the other or others pay their share. The amount of a compromise with one debtor is not considered a precedent or

binding in determining the amount which will be required from other debtors jointly and severally liable on the claim.

§ 1018.53 Finality of a compromise.

An offer of compromise must be in writing and signed by the debtor. An offer of compromise which is accepted by the Board is final and conclusive on the debtor and on all officials, agencies and courts of the United States, unless obtained by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact.

Subpart D—Suspension or Termination of Collection Action

§ 1018.60 When collection action may be suspended or terminated.

The Board may suspend or terminate collection action on a claim not in excess of the monetary limitation, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments, if any, if it has not been referred to GAO or DOJ for litigation.

§ 1018.61 Reasons for suspending collection action.

Collection action may be suspended temporarily:

(a) When the debtor cannot be located after diligent efforts, and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim considering the size of the claim and the amount which may be realized on it; or

(b) When the debtor owns no substantial equity in realty and is unable to make payments on the Government's claim or effect a compromise on it at the time, but the debtor's future prospects justify retention of the claim for periodic review and action:

(1) The applicable statute of limitations has been tolled or started anew; or

(2) Future collection can be effected by offset notwithstanding the statute of limitations.

§ 1018.62 Reasons for terminating collection action.

Collection action may be terminated: